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7 **UNITED STATES DISTRICT COURT**  
8 **SOUTHERN DISTRICT OF CALIFORNIA**

9 ROBERT McADAM,

10 Plaintiff,

11 v.

12 STATE NATIONAL INSURANCE  
13 COMPANY, INC. and DOES 1  
through 25, inclusive,

14 Defendants.

Case No. 12-cv-1333-BTM-MDD

**ORDER**

15 Federal courts have authority to address attorney conduct in litigation,  
16 and to that end may look, e.g., to the standards of professional conduct in  
17 the state where the court sits. See, e.g., In re Snyder, 472 U.S. 634, 645 n.  
18 6 (1985); United States v. Seltzer, 227 F.3d 36, 40–42 (2d Cir. 2000);  
19 Alexander Interactive, Inc. v. Adorama, Inc., No. 12-cv-6608, 2014 WL  
20 2968528 (S.D.N.Y. June 26, 2014 (slip op.)). In California, Rule of  
21 Professional Conduct 5-210 governs the obligations of a member of the bar  
22 who knows or should know they will be called as a witness before a jury:

23 A member shall not act as an advocate before a jury which will  
hear testimony from the member unless:

24 (A) The testimony relates to an uncontested matter; or

25 (B) The testimony relates to the nature and value of legal services  
26 rendered in the case; or


27 (C) The member has the informed, written consent of the client. If  
the member represents the People or a governmental entity, the  
28 consent shall be obtained from the head of the office or a  
designee of the head of the office by which the member is  
employed and shall be consistent with principles of recusal.

1 Cal. Rules of Prof'l Conduct R. 5-210 (2014). See also id. R. 1-100(A)  
2 ("Ethics opinions and rules and standards promulgated by other jurisdictions  
3 and bar associations may also be considered."); Kennedy v. Eldridge, 201  
4 Cal. App. 4th 1197, 1204 (2011) (applying the broader Model Rule 3.7 of the  
5 Model Rules of Professional Conduct of the American Bar Association).

6 Here, Annette Clark, Plaintiff's counsel, has been named as a trial  
7 witness by Defendant. The Court accordingly **ORDERS** Plaintiff or Plaintiff's  
8 counsel to file, within **thirty days** of the entry of this Order, a brief  
9 explanation of how Ms. Clark may testify and act as trial counsel consistent  
10 with Rule 5-210.

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12 **IT IS SO ORDERED.**

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14 DATED: July 22, 2014

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16 BARRY TED MOSKOWITZ  
17 Chief Judge  
18 United States District Court  
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